HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO.2664 of 2007

Dated:14-12-2007

Between:

Somavarapu Sundara Reddy

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AND

The District Collector,
Nellore.
And others.

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Counsel for the petitioner : Sri P.Gangarami Reddy

Counsel for Respondents : A.G.P.for Land Acquisition

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WRIT PETITION No.2664 of 2007

O R D E R:

At the interlocutory stage, with the consent of both the learned counsel, the writ petition is taken up for hearing and is being disposed of.

The only grievance of the petitioner is that an extent of Ac.1.93 cents of land in survey No.351/B2 which was held by the petitioner under DKT patta was resumed for the purpose of irrigation canal and that no compensation has been paid.

Sri M.Munuswamy Naidu, Special Deputy Collector, Land Acquisition, Telugu Ganga Project, Nellore filed counter affidavit wherein at para-9 it is stated as under:

> " In reply to the averments made in para-8 of the petitioner's affidavit it is submitted that since the land in Sy.No.351/B2 extent Ac.1-93 cents is Government assigned land and it is required by the Government for the public purpose of irrigation canal, it has been resumed by the Government. The Government need not acquire or notify its own land under the Land Acquisition Act. It will be utilized for the purpose alongwith patta lands which were already notified. The petitioner is not entitled for any compensation in respect of the Government assigned lands. However, as per the G.O.Ms.No.1307 issued by the Government, exgratia will be paid. The petitioner cannot acquire any right or title by purchasing the same from his alleged vendors. The petitioner is not entitled for any relief as sought for. The petitioner has not made out any case warranting interference of this Hon'ble court under Article 226 of the Constitution of India."

In view of the larger Bench judgment of this court in **LAO-cum-Revenue Divisional Officer, Chevella Division, Hyderabad Vs. Mekala Pandu and Others**[1] even an assignee of DKT patta is entitled to compensation on par with the pattadars.

It is brought to my notice that the said judgment is questioned before the Supreme Court and the same is pending. Learned Assistant Government Pleader for Land Acquisition says that in view of the pendancy of the appeal before the Supreme Court, the Government has been paying exgratia compensation in accordance with G.O.Ms.No.1307 dated… and that the respondents may be directed to pay the said exgratia.

Since the appeal is pending before the Supreme Court, I am of the view that interest of justice would be met if exgratia compensation in terms of G.O.Ms.No.1307 dated … is paid subject however, to the condition that in the event the Supreme Court disposes of the case against the Government, the petitioner shall be paid the balance amount reflecting the market value as per the provisions of the Land Acquisition Act, 1894 as on the date of resumption of the property. Payment as directed above, shall be made within six weeks from the date of receipt of a copy of this order.

The writ petition is disposed of in the manner indicated above.

As a sequel to disposal of the writ petition, W.P.M.P.No.3414 of 2007 filed by the petitioner seeking interim direction is also dismissed.

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C.V.NAGARJUNA REDDY,J

Date:14.12.2007
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[1] 2004 (2) ALD 451 (LB)